

Applicant: John K. Smith
Application Serial No.: 09/660,078
Filing Date: September 11, 2000
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Remarks

The claims have been amended. Claims 1 and 5 have been amended to more clearly set forth the subject matter of the invention. Claims 1 and 3-11 are currently pending.

Section 102 and 103 rejections

All of the pending claims have been rejected under 35 U.S.C. §102 and/or 35 U.S.C. §103 in view of a single reference, U.S. Patent NO. 5,723,003 to Winston et al. ("Winston"). Specifically, claim 1 has been rejection under Section 102 as being anticipated by Winston, claims 3-5 and 7-11 have been rejected under Section 102 as anticipated by or in the alternative as obvious under Section 103 in view of Winston, and claim 6 has been rejected under Section 103 as unpatentable in view of Winston. Applicants respectfully submit that the amendment of independent claims 1 and 5 obviates these grounds of rejection.

The present invention includes an endovascular member which may be a graft and a patch which forms a fluid-tight seal to the graft and is attached by a hook and loop fastener. As in claim 1, the patch is in the form of a tape. The present invention also provides a method of repairing an endovascular member including damaged area by endovascularly introducing and attaching a patch to an endovascular member.

Winston is directed to a multi-component graft assembly which includes an outer stent in a rolled configuration with a graft adhered to the inner layer, which is the outer graft. The outer graft is then sandwiched between the outer stent and a plurality of inner stents which keep the outer graft in place. One or more inner grafts are then added to the inner surface of the inner stents to shield them from direct exposure to the lumen of the body passage. These inner grafts will contact the outer graft and may be attached by a hook and loop fastener.

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The grafts contemplated by Winston are set forth at column 7 lines 41-46. Specifically, the graft must be "a completely closed lumen, open only at the ends." This allows for the graft assembly as set forth in Winston to be used either within a lumen or as a bypass.

Winston is directed to the preparation of a graft assembly which may be used either as an endovascular graft or as a bypass graft. Winston provides no disclosure teaching or suggestion of a patch in the form of a tape or to repair an endovascular member which includes a damaged area. The definition of a graft in Winston as a closed lumen open only at the ends precludes the inclusion of patch in the form of a tape or use of a patch to repair a damaged graft. Therefore, reconsideration and withdrawal of the rejection in view of claim 1 is appropriate and respectfully requested.

Winston also fails to disclose teach or suggest a method of repairing a damaged endovascular member. The only methods disclosed in Winston are directed to a method of preparing a stent-graft, which Winston refers to as a graft assembly. Once implanted, Winston provides no teaching or suggestion to repair the graft assembly, in the event that it later becomes damaged.

To modify Winston absent some suggestion to do so is not permissible. Moreover, any such modification would clearly destroy the intent and purpose of Winston because Winston's liner is already attached to the stent graft prior to implantation for the purpose of isolating the stent from the blood. The use of the hook and loop attachments are not for repair but are part of the original construction.

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Since one following the teachings of Winston would have no motivation to modify the teachings of Winston to provide a device or method of repairing a damaged graft, Winston fails to establish a *prima facie* case of obviousness with respect to claims 1 and 5.

Therefore, reconsideration and withdrawal of the rejections in view of claims 1 and 5 and claims 3-4 and 6-11 which depend therefrom are appropriate and respectfully requested.

Should the Examiner have any questions regarding this amendment, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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